

the benefits and health care they have earned through service in the Armed Forces;

Whereas Paralyzed Veterans of America is a leader in medical and prosthetic research, funding two research foundations that investigate a broad spectrum of neurological science to seek a cure for spinal cord injury as well as breakthroughs in rehabilitation to improve the quality of life of all Americans with spinal cord injury or dysfunction;

Whereas Paralyzed Veterans of America is a leading advocate within the veterans community in the Nation's capital, making certain the needs of its members are recognized by Congress and the Executive Branch of the Federal Government;

Whereas the Advocacy Program of Paralyzed Veterans of America joins the disability community in seeking to ensure civil rights and access to transportation, housing, and the physical environment for individuals with disabilities in order to maximize the independence of all Americans with disabilities;

Whereas through its architecture programs, Paralyzed Veterans of America is a leading force in barrier-free design, serving as consultant in the public and private sector to ensure a barrier-free physical environment for all Americans with disabilities;

Whereas Paralyzed Veterans of America has one of the Nation's largest wheelchair sports programs, fostering a wide range of sporting, indoor, and outdoor recreational events to encourage physical activity and comradeship so vital to the ongoing rehabilitation of its members;

Whereas Paralyzed Veterans of America is designating the week of April 11 through 17, 2004, as Paralyzed Veterans of America Awareness Week in order to support a wide variety of programs designated to highlight the services it provides nationwide and promote recognition of the sacrifice its members have made on behalf of a grateful Nation: Now therefore be it

Resolved, That the Senate—

(1) salutes Paralyzed Veterans of America (PVA) during Paralyzed Veterans of America Awareness Week, the week of April 11 through 17, 2004; and

(2) encourages all Americans to acknowledge and express their appreciation for the past and on-going contributions of Paralyzed Veterans of America to disabled veterans and to all other Americans with disabilities.

FEDERAL WORKFORCE FLEXIBILITY ACT OF 2003

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 428, S. 129.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 129) to provide for reform relating to Federal employment, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Governmental Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 129

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

[(a) SHORT TITLE.—This Act may be cited as the “Federal Workforce Flexibility Act of 2003”.]

[(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

[Sec. 1. Short title; table of contents.]

[TITLE I—FEDERAL HUMAN RESOURCES
MANAGEMENT INNOVATIONS]

[Sec. 101. Streamlined personnel management demonstration projects.]

[Sec. 102. Effective date.]

[TITLE II—REFORMS RELATING TO FEDERAL HUMAN CAPITAL MANAGEMENT]

[Sec. 201. Recruitment, relocation, and retention bonuses.]

[Sec. 202. Streamlined critical pay authority.]

[Sec. 203. Civil service retirement system computation for part-time service.]

[Sec. 204. Corrections relating to pay administration.]

[TITLE III—REFORMS RELATING TO FEDERAL EMPLOYEE CAREER DEVELOPMENT AND BENEFITS]

[Sec. 301. Agency training.]

[Sec. 302. Annual leave enhancements.]

[TITLE I—FEDERAL HUMAN RESOURCES
MANAGEMENT INNOVATIONS]

[SEC. 101. STREAMLINED PERSONNEL MANAGEMENT DEMONSTRATION PROJECTS.]

[Chapter 47 of title 5, United States Code, is amended—

[(1) in section 4701—

[(A) in subsection (a)—

[(i) by striking “(a)”;

[(ii) by striking paragraph (1) and inserting the following:

[(1) “agency” means an Executive agency and any entity that is subject to any provision of this title that could be waived under section 4703, but does not include—

[(A) the Federal Bureau of Investigation, the Central Intelligence Agency, the Defense Intelligence Agency, the National Imagery and Mapping Agency, the National Security Agency, and, as determined by the President, any Executive agency or unit thereof which is designated by the President and which has as its principal function the conduct of foreign intelligence or counterintelligence activities; or

[(B) the General Accounting Office;”]

[(iii) in paragraph (4), by striking “and” at the end;

[(iv) by redesignating paragraph (5) as paragraph (6); and

[(v) by inserting after paragraph (4) the following:

[(5) “modification” means a significant change in 1 or more of the elements of a demonstration project plan as described in section 4703(b)(1); and”]

[(B) by striking subsection (b); and

[(2) in section 4703—

[(A) in subsection (a)—

[(i) by striking “conduct and evaluate demonstration projects” and inserting “conduct, modify, and evaluate demonstration projects”;

[(ii) by striking “, including any law or regulation relating to—” and all that follows and inserting a period; and

[(iii) by adding at the end the following: “The decision to initiate or modify a project under this section shall be made by the Office.”]

[(B) by striking subsection (b) and inserting the following:

[(b) Before conducting or entering into any agreement or contract to conduct a demonstration project, the Office shall ensure—

[(1) that each project has a plan which describes—

[(A) its purpose;

[(B) the employees to be covered;

[(C) its anticipated outcomes and resource implications, including how the project relates to carrying out the agency's strategic plan, including meeting performance goals and objectives, and accomplishing its mission;

[(D) the personnel policies and procedures the project will use that differ from those otherwise available and applicable, including a specific citation of any provisions of law, rule, or regulation to be waived and a specific description of any contemplated action for which there is a lack of specific authority;

[(E) the method of evaluating the project; and

[(F) the agency's system for ensuring that the project is implemented in a manner consistent with merit system principles;

[(2) notification of the proposed project to employees who are likely to be affected by the project;

[(3) an appropriate comment period;

[(4) publication of the final plan in the Federal Register;

[(5) notification of the final project at least 90 days in advance of the date any project proposed under this section is to take effect to employees who are likely to be affected by the project;

[(6) publication of any subsequent modification in the Federal Register; and

[(7) notification of any subsequent modification to employees who are included in the project.”]

[(C) in subsection (c)—

[(i) by striking paragraph (1) and inserting the following:

[(1) any provision of chapter 63 or subpart G of part III of this title;”]

[(ii) by redesignating paragraphs (4) and (5) as paragraphs (6) and (7), respectively;

[(iii) by inserting after paragraph (3) the following:

[(4) section 7342, 7351, or 7353;

[(5) the Ethics in Government Act of 1978 (5 U.S.C. App.);”]

[(iv) in paragraph (6) as redesignated, by striking “paragraph (1), (2), or (3) of this subsection; or” and inserting “paragraphs (1) through (5);”]

[(D) by striking subsections (d) and (e) and inserting the following:

[(d)(1) Unless terminated at an earlier date in accordance with this section, each demonstration project shall terminate at the end of the 10-year period beginning on the date on which the project takes effect.

[(2) Before the end of the 5-year period beginning on the date on which a demonstration project takes effect, the Office shall submit a recommendation to Congress on whether Congress should enact legislation to make that project permanent.

[(e) The Office may terminate a demonstration project under this chapter if the Office determines that the project—

[(1) is not consistent with merit system principles set forth in section 2301, veterans' preference principles, or the provisions of this chapter; or

[(2) otherwise imposes a substantial hardship on, or is not in the best interests of, the public, the Government, employees, or eligibles.”]

[(E) by striking subsections (h) and (i) and inserting the following:

[(h) Notwithstanding section 2302(e)(1), for purposes of applying section 2302(b)(11) in a demonstration project under this chapter, the term “veterans' preference requirement” means any of the specific provisions of the demonstration project plan that are designed to ensure that the project is consistent with veterans' preference principles.

["(i) The Office shall ensure that each demonstration project is evaluated. Each evaluation shall assess—

["(1) the project's compliance with the plan developed under subsection (b)(1); and

["(2) the project's impact on improving public management.

["(j) Upon request of the Director of the Office of Personnel Management, agencies shall cooperate with and assist the Office in any evaluation undertaken under subsection (i) and provide the Office with requested information and reports relating to the conducting of demonstration projects in their respective agencies.".

[SEC. 102. EFFECTIVE DATE.]

[This title shall take effect 180 days after the date of enactment of this Act.]

[TITLE II—REFORMS RELATING TO FEDERAL HUMAN CAPITAL MANAGEMENT]

[SEC. 201. RECRUITMENT, RELOCATION, AND RETENTION BONUSES.]

[(a) BONUSES.—]

["(1) IN GENERAL.—Chapter 57 of title 5, United States Code, is amended by striking sections 5753 and 5754 and inserting the following:

["§ 5753. Recruitment and relocation bonuses]

["(a) In this section, the term 'employee' has the meaning given that term under section 2105, except that such term also includes an employee described under subsection (c) of that section.

["(b)(1) The Office of Personnel Management may authorize the head of an agency to pay a bonus to an individual appointed or moved to a position that is likely to be difficult to fill in the absence of such a bonus, if the individual—

["(A)(i) is newly appointed as an employee of the Federal Government; or

["(ii) is currently employed by the Federal Government and moves to a new position in the same geographic area under circumstances described in regulations of the Office; or

["(B) is currently employed by the Federal Government and must relocate to accept a position stationed in a different geographic area.

["(2) Except as provided by subsection (h), a bonus may be paid under this section only to an employee covered by the General Schedule pay system established under subchapter III of chapter 53.

["(c)(1) Payment of a bonus under this section shall be contingent upon the employee entering into a written service agreement to complete a period of employment with the agency, not to exceed 4 years. The Office may, by regulation, prescribe a minimum service.

["(2)(A) The agreement shall include—

["(i) the length of the required service period;

["(ii) the amount of the bonus;

["(iii) the method of payment; and

["(iv) other terms and conditions under which the bonus is payable, subject to subsections (d) and (e) and regulations of the Office.

["(B) The terms and conditions for paying a bonus, as specified in the service agreement, shall include—

["(i) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed; and

["(ii) the effect of the termination.

["(3) The agreement shall be made effective upon employment with the agency or movement to a new position or geographic area, as applicable, except that a service agreement with respect to a recruitment bonus may be made effective at a later date under circumstances described in regulations of the Office, such as when there is an initial period of formal basic training.

["(d)(1) Except as provided in subsection (e), a bonus under this section shall not exceed 25 percent of the annual rate of basic pay of the employee at the beginning of the service period multiplied by the number of years (or fractions thereof) in the service period, not to exceed 4 years.

["(2) A bonus under this section may be paid as an initial lump sum, in installments, as a final lump sum upon the completion of the full service period, or in a combination of these forms of payment.

["(3) A bonus under this section is not part of the basic pay of an employee for any purpose.

["(4) Under regulations of the Office, a recruitment bonus under this section may be paid to an eligible individual before that individual enters on duty.

["(e) The Office may authorize the head of an agency to waive the limitation under subsection (d)(1) based on a critical agency need, subject to regulations prescribed by the Office. Under such a waiver, the amount of the bonus may be up to 50 percent of the employee's annual rate of basic pay at the beginning of the service period multiplied by the number of years (or fractions thereof) in the service period, not to exceed 100 percent of the employee's annual rate of basic pay at the beginning of the service period.

["(f) The Office shall require that, before paying a bonus under this section, an agency shall establish a plan for paying recruitment bonuses and a plan for paying relocation bonuses, subject to regulations prescribed by the Office.

["(g) The Office may prescribe regulations to carry out this section, including regulations relating to the repayment of a recruitment or relocation bonus in appropriate circumstances when the agreed-upon service period has not been completed.

["(h)(1) At the request of the head of an Executive agency, the Office may extend coverage under this section to categories of employees within the agency who otherwise would not be covered by this section.

["(2) The Office shall not extend coverage to the head of an Executive agency, including an Executive agency headed by a board or other collegial body composed of 2 or more individual members.

["§ 5754. Retention bonuses]

["(a) In this section, the term 'employee' has the meaning given that term under section 2105, except that such term also includes an employee described in subsection (c) of that section.

["(b) The Office of Personnel Management may authorize the head of an agency to pay a retention bonus to an employee, subject to regulations prescribed by the Office, if—

["(1) the unusually high or unique qualifications of the employee or a special need of the agency for the employee's services makes it essential to retain the employee; and

["(2) the agency determines that, in the absence of a retention bonus, the employee would be likely to leave—

["(A) the Federal service; or

["(B) for a different position in the Federal service under conditions described in regulations of the Office.

["(c) The Office may authorize the head of an agency to pay retention bonuses to a group of employees in 1 or more categories of positions in 1 or more geographic areas, subject to the requirements of subsection (b)(1) and regulations prescribed by the Office, if there is a high risk that a significant portion of employees in the group would be likely to leave in the absence of retention bonuses.

["(d) Except as provided in subsection (j), a bonus may be paid only to an employee covered by the General Schedule pay system

established under subchapter III of chapter 53.

["(e)(1) Payment of a retention bonus is contingent upon the employee entering into a written service agreement with the agency to complete a period of employment with the agency.

["(2)(A) The agreement shall include—

["(i) the length of the required service period;

["(ii) the amount of the bonus;

["(iii) the method of payment; and

["(iv) other terms and conditions under which the bonus is payable, subject to subsections (f) and (g) and regulations of the Office.

["(B) The terms and conditions for paying a bonus, as specified in the service agreement, shall include—

["(i) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed; and

["(ii) the effect of the termination.

["(3)(A) Notwithstanding paragraph (1), a written service agreement is not required if the agency pays a retention bonus in bi-weekly installments and sets the installment payment at the full bonus percentage rate established for the employee with no portion of the bonus deferred.

["(B) If an agency pays a retention bonus in accordance with subparagraph (A) and makes a determination to terminate the payments, the agency shall provide written notice to the employee of that determination. Except as provided in regulations of the Office, the employee shall continue to be paid the retention bonus through the end of the pay period in which such written notice is provided.

["(4) A retention bonus for an employee may not be based on any period of such service which is the basis for a recruitment or relocation bonus under section 5753.

["(f)(1) Except as provided in subsection (g), a retention bonus, which shall be stated as a percentage of the employee's basic pay for the service period associated with the bonus, may not exceed—

["(A) 25 percent of the employee's basic pay if paid under subsection (b); or

["(B) 10 percent of an employee's basic pay if paid under subsection (c).

["(2) A retention bonus may be paid to an employee in installments after completion of specified periods of service or in a single lump sum at the end of the full period of service required by the agreement. An installment payment may not exceed the product derived from multiplying the amount of basic pay earned in the installment period by a percentage not to exceed the bonus percentage rate established for the employee. If the installment payment percentage is less than the bonus percentage rate, the accrued but unpaid portion of the bonus is payable as part of the final installment payment to the employee after completion of the full service period under the terms of the service agreement.

["(3) A retention bonus is not part of the basic pay of an employee for any purpose.

["(g) Upon the request of the head of an agency, the Office may waive the limit established under subsection (f)(1) and permit the agency head to pay an otherwise eligible employee or category of employees retention bonuses of up to 50 percent of basic pay, based on a critical agency need.

["(h) The Office shall require that, before paying a bonus under this section, an agency shall establish a plan for paying retention bonuses, subject to regulations prescribed by the Office.

["(i) The Office may prescribe regulations to carry out this section.

["(j)(1) At the request of the head of an Executive agency, the Office may extend coverage under this section to categories of employees within the agency who otherwise would not be covered by this section."

["(2) The Office shall not extend coverage under this section to the head of an Executive agency, including an Executive agency headed by a board or other collegial body composed of 2 or more individual members."].

[(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 57 of title 5, United States Code, is amended by striking the item relating to section 5754 and inserting the following:

["5754. Retention bonuses."].

[(b) RELOCATION PAYMENTS.—Section 407 of the Federal Employees Pay Comparability Act of 1990 (5 U.S.C. 5305 note; 104 Stat. 1467) is repealed.

[(c) EFFECTIVE DATE AND APPLICATION.—

[(1) EFFECTIVE DATE.—Except as provided under paragraphs (2) and (3), this section shall take effect on the first day of the first applicable pay period beginning on or after 180 days after the date of enactment of this Act.

[(2) APPLICATION TO AGREEMENTS.—A recruitment or relocation bonus service agreement that was authorized under section 5753 of title 5, United States Code, before the effective date under paragraph (1) shall continue, until its expiration, to be subject to section 5753 as in effect on the day before such effective date.

[(3) APPLICATION TO ALLOWANCES.—Payment of a retention allowance that was authorized under section 5754 of title 5, United States Code, before the effective date under paragraph (1) shall continue, subject to section 5754 as in effect on the day before such effective date, until the retention allowance is reauthorized or terminated (but no longer than 1 year after such effective date).

[SEC. 202. STREAMLINED CRITICAL PAY AUTHORITY.]

[Section 5377 of title 5, United States Code, is amended—

[(1) by striking subsection (c) and inserting the following:

["(c) The Office of Personnel Management, in consultation with the Office of Management and Budget, may, upon the request of the head of an agency, grant authority to fix the rate of basic pay for 1 or more positions in such agency in accordance with this section."];

[(2) in subsection (e)(1), by striking "Office of Management and Budget" and inserting "Office of Personnel Management";

[(3) by striking subsections (f) and (g) and inserting the following:

["(f) The Office of Personnel Management may not authorize the exercise of authority under this section with respect to more than 800 positions at any 1 time, of which not more than 30 may, at any such time, be positions the rate of basic pay for which would otherwise be determined under subchapter II.

["(g) The Office of Personnel Management shall consult with the Office of Management and Budget before making any decision to grant or terminate any authority under this section."]; and

[(4) in subsection (h), by striking "The Office of Management and Budget shall report to the Committee on Post Office and Civil Service" and inserting "The Office of Personnel Management shall report to the Committee on Government Reform."].

[SEC. 203. CIVIL SERVICE RETIREMENT SYSTEM COMPUTATION FOR PART-TIME SERVICE.]

[Section 8339(p) of title 5, United States Code, is amended by adding at the end the following:

["(3) In the administration of paragraph (1)—

["(A) subparagraph (A) of such paragraph shall apply to any service performed before, on, or after April 7, 1986;

["(B) subparagraph (B) of such paragraph shall apply to all service performed on a part-time or full-time basis on or after April 7, 1986; and

["(C) any service performed on a part-time basis before April 7, 1986, shall be credited as service performed on a full-time basis."].

[SEC. 204. CORRECTIONS RELATING TO PAY ADMINISTRATION.]

[(a) IN GENERAL.—Chapter 53 of title 5, United States Code, is amended—

[(1) in section 5302, by striking paragraph (8) and inserting the following:

["(8) the term 'rates of pay under the General Schedule', 'rates of pay for the General Schedule', or 'scheduled rates of basic pay' means the unadjusted rates of basic pay in the General Schedule as established by section 5332, excluding additional pay of any kind; and";

[(2) in section 5305—

[(A) by striking subsection (a) and inserting the following:

["(a)(1) Whenever the Office of Personnel Management finds that the Government's recruitment or retention efforts with respect to 1 or more occupations in 1 or more areas or locations are, or are likely to become, significantly handicapped due to any of the circumstances described in subsection (b), the Office may establish for the areas or locations involved, with respect to individuals in positions paid under any of the pay systems referred to in subsection (c), higher minimum rates of pay for 1 or more grades or levels, occupational groups, series, classes, or subdivisions thereof, and may make corresponding increases in all rates of pay range for each such grade or level. However, a minimum rate so established may not exceed the maximum rate of basic pay (excluding any locality-based comparability payment under section 5304 or similar provision of law) for the grade or level by more than 30 percent, and no rate may be established under this section in excess of the rate of basic pay payable for level IV of the Executive Schedule. In the case of individuals not subject to the provisions of this title governing appointment in the competitive service, the President may designate another agency to authorize special rates under this section.

["(2) The head of an agency may determine that a category of employees of the agency will not be covered by a special rate authorization established under this section. The head of an agency shall provide written notice to the Office of Personnel Management (or other agency designated by the President to authorize special rates) which identifies the specific category or categories of employees that will not be covered by special rates authorized under this section. If the head of an agency removes a category of employees from coverage under a special rate authorization after that authorization takes effect, the loss of coverage will take effect on the first day of the first pay period after the date of the notice."];

[(B) in subsection (b), by striking paragraph (4) and inserting the following:

["(4) any other circumstances which the Office of Personnel Management (or such agency as the President may designate) considers appropriate."];

[(C) in subsection (d)—

[(i) by striking "President" and inserting "Office of Personnel Management"; and

[(ii) by striking "he" and inserting "the President";

[(D) in subsection (e), by striking "basic pay" and inserting "pay";

[(E) by striking subsection (f) and inserting the following:

["(f) When a schedule of special rates established under this section is adjusted

under subsection (d), a covered employee's special rate will be adjusted in accordance with conversion rules prescribed by the Office of Personnel Management or by such agency as the President may designate."];

[(F) in subsection (g)(1)—

[(i) by striking "basic pay" and inserting "pay"; and

[(ii) by striking "President (or his designated agency)" and inserting "Office of Personnel Management (or such agency as the President may designate)";

[(G) by striking subsection (h) and inserting the following:

["(h) An employee's entitlement to a rate of pay established under this section terminates when the employee is entitled to a higher rate of pay (including basic pay as adjusted to include any locality-based comparability payment under section 5304 or similar provision of law)."; and

[(H) by adding at the end the following:

["(i) When an employee who is receiving a rate of pay established under this section moves to a new official duty station at which different pay schedules apply, the employee shall be entitled to the rates of pay applicable in the new pay area based on the employee's position, grade, and step (or relative position in the rate range) before the movement, as determined under regulations prescribed by the Office of Personnel Management or other agency designated by the President under subsection (a). Such pay conversion upon geographic movement shall be effected before processing any other simultaneous pay action (other than a general pay adjustment).

["(j) A rate established under this section shall be considered to be part of basic pay for purposes of subchapter III of chapter 83, chapter 84, chapter 87, subchapter V of chapter 55, section 5941, and for such other purposes as may be expressly provided for by law or as the Office of Personnel Management may by regulation prescribe."];

[(3) in section 5334—

[(A) in subsection (b), by adding at the end the following:

["If an employee's rate after promotion or transfer is greater than the maximum rate of basic pay for the employee's grade, that rate shall be treated as a retained rate under section 5363. The Office of Personnel Management shall prescribe by regulation the circumstances under which and the extent to which special rates under section 5305 (or similar provision of law) or locality-adjusted rates under section 5304 (or similar provision of law) are considered to be basic pay in applying this subsection."]; and

[(B) by adding at the end the following:

["(g) When an employee moves to a new official duty station at which different pay schedules apply, the employee shall be entitled to the rates of pay applicable in the new pay area based on the employee's position, grade, and step (or relative position in the rate range) before the movement. Such pay conversion upon geographic movement shall be effected before processing any other simultaneous pay action (other than a general pay adjustment).";

[(4) in section 5361—

[(A) by striking paragraphs (3) and (4) and redesignating paragraphs (5) through (7) as paragraphs (3) through (5), respectively;

[(B) in paragraph (4), as redesignated, by striking "and" at the end;

[(C) in paragraph (5), as redesignated, by striking the period and inserting a semicolon; and

[(D) by adding at the end the following:

["(6) 'rate of basic pay' means—

["(A) the rate of pay prescribed by law (including regulations) for the position held by an employee before any deductions or additions of any kind, but including—

["(i) any applicable locality-based payment under section 5304 or similar provision of law;

["(ii) any applicable special salary rate under section 5305 or similar provision of law; and

["(iii) any applicable existing retained rate of pay established under section 5363 or similar provision of law; and

["(B) in the case of a prevailing rate employee, the scheduled rate of pay determined under section 5343;

["(7) 'former highest applicable rate of basic pay' means the highest applicable rate of basic pay payable to the employee immediately before the action that triggers pay retention under section 5363; and

["(8) 'highest applicable basic pay rate range' means the range of rates of basic pay for the grade or level of the employee's current position with the highest maximum rate, except as otherwise provided in regulations prescribed by the Office of Personnel Management in cases where another rate range provides higher rates only in the lower portion of the range.";

["(5) in section 5363—

["(A) in subsection (a), by amending the matter following paragraph (4) to read as follows:

["is entitled to pay retention under the conditions set forth in this section. Notwithstanding any other provision of law, this section may not be applied to employees whose rate of basic pay is reduced solely because of the recomputation of pay upon movement to a new official duty station at which different pay schedules apply. When a geographic move is accompanied by a simultaneous pay action that reduces the employee's rate of basic pay after the employee's pay has been recomputed to reflect the geographic move, this section shall be applied, if otherwise applicable."; and

["(B) by striking subsections (b) and (c) and inserting the following:

["(b)(1) If an employee is entitled to pay retention under subsection (a), paragraphs (2) and (3) shall apply in determining the employee's rate of pay:

["(2) If the employee's former highest applicable rate of basic pay is less than or equal to the maximum rate of the highest applicable basic pay rate range for the employee's current position, the employee is entitled to the lowest payable rate of basic pay in that rate range that equals or exceeds the former rate, and pay retention ceases to apply.

["(3) If the employee's former highest applicable rate of basic pay exceeds the maximum rate of the highest applicable basic pay rate range for the employee's current position, the employee is entitled to a retained rate equal to the lesser of—

["(A) the employee's former highest applicable rate of basic pay; or

["(B) 150 percent of the maximum rate of the highest applicable basic pay rate range for the employee's position.

["(c) An employee's retained rate shall be increased at the time of any increase in the maximum rate of the highest applicable basic pay rate range for the employee's position by 50 percent of the dollar increase in that maximum rate.

["(d) The rate of pay for an employee who is receiving a retained rate under this section and who is moved to a new official duty station at which different pay schedules apply shall be determined under regulations prescribed by the Office of Personnel Management consistent with the purposes of this section.

["(e) A retained rate shall be considered part of basic pay for purposes of this subchapter and for purposes of subchapter III of chapter 83, chapters 84 and 87, subchapter V

of chapter 55, section 5941, and for such other purposes as may be expressly provided for by law or as the law or as the Office of Personnel Management may by regulation prescribe. For other purposes, the Office shall prescribe by regulation what constitutes basic pay for employees receiving a retained rate.

["(f) Subsections (a) through (e) do not apply (or shall cease to apply) to an employee who—

["(1) has a break in service of 1 workday or more;

["(2) is entitled by operation of this subchapter or chapter 51 or 53 to a rate of basic pay which is equal to or higher than, or declines a reasonable offer of a position the rate of basic pay for which is equal to or higher than, the rate to which the employee is entitled under this section; or

["(3) is demoted for personal cause or at the employee's request."; and

["(6) in section 5365(b) by inserting after "provisions of this subchapter" the following: "(subject to any conditions or limitations the Office may establish)".

["(b) SPECIAL RATES FOR LAW ENFORCEMENT OFFICERS.—Section 403(c) of the Federal Employees Pay Comparability Act of 1990 (5 U.S.C. 5305 note; Public Law 101-509) is amended by striking all after "provision of law)" and inserting "and shall be basic pay for all purposes. The rates shall be adjusted at the time of adjustments in the General Schedule to maintain the step linkage set forth in subsection (b)(2).".

["(c) PAY RETENTION.—Subject to any regulations the Office of Personnel Management may prescribe, any employee in a covered pay schedule who is receiving a retained rate under section 5363 of title 5, United States Code, or similar authority on the effective date of this Act shall have the pay of that employee converted on that date. The newly applicable retained rate shall equal the formerly applicable retained rate as adjusted to include any applicable locality-based payment under section 5304 of title 5, United States Code, or similar provision of law. Any employee in a covered pay system receiving a rate that exceeds the maximum rate of the highest applicable basic pay rate range for the employee's position (as defined under section 5361(8) of that title, as amended by this Act) under any authority shall be considered to be receiving a retained rate under section 5363 of that title.

["TITLE III—REFORMS RELATING TO FEDERAL EMPLOYEE CAREER DEVELOPMENT AND BENEFITS

["SEC. 301. AGENCY TRAINING.

["(a) TRAINING TO ACCOMPLISH PERFORMANCE PLANS AND STRATEGIC GOALS.—Section 4103 of title 5, United States Code, is amended by adding at the end the following:

["(c) The head of each agency shall—

["(1) evaluate each program or plan established, operated, or maintained under subsection (a) with respect to accomplishing specific performance plans and strategic goals in performing the agency mission; and

["(2) modify such program or plan to accomplish such plans and goals.".

["(b) AGENCY TRAINING OFFICER; SPECIFIC TRAINING PROGRAMS.—

["(1) IN GENERAL.—Chapter 41 of title 5, United States Code, is amended by adding after section 4119 the following:

["§ 4120. Agency training officer

["Each agency shall appoint or designate a training officer who shall be responsible for developing, coordinating, and administering training for the agency.

["§ 4121. Specific training programs

["In consultation with the Office of Personnel Management, each head of an agency shall establish—

["(1) a comprehensive management succession program to provide training to employees to develop managers for the agency; and

["(2) a program to provide training to managers on actions, options, and strategies a manager may use in—

["(A) relating to employees with unacceptable performances; and

["(B) mentoring employees and improving employee performance and productivity.".

["(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 41 of title 5, United States Code, is amended by adding at the end the following:

["4120. Agency training officer.

["4121. Specific training programs.".

["SEC. 302. ANNUAL LEAVE ENHANCEMENTS.

["(a) ACCRUAL OF LEAVE FOR NEWLY HIRED FEDERAL EMPLOYEES WITH QUALIFIED EXPERIENCE.—

["(1) IN GENERAL.—Section 6303 of title 5, United States Code, is amended by adding at the end the following:

["(e)(1) In this subsection, the term 'period of qualified non-Federal service' means any equal period of service performed by an individual that—

["(A) except for this subsection would not otherwise be service performed by an employee for purposes of subsection (a); and

["(B) was performed in a position—

["(i) the duties of which were directly related to the duties of the position in an agency that such individual holds; and

["(ii) which meets such other conditions as the Office of Personnel Management shall prescribe by regulation.

["(2) For purposes of subsection (a), the head of an agency may deem a period of qualified non-Federal service performed by an individual to be a period of service performed as an employee.".

["(2) EFFECTIVE DATE.—This section shall take effect 120 days after the date of enactment of this Act and shall only apply to an individual hired on or after that effective date.

["(b) SENIOR EXECUTIVE SERVICE ANNUAL LEAVE ENHANCEMENTS.—

["(1) IN GENERAL.—Section 6303(a) of title 5, United States Code, is amended—

["(A) in paragraph (2), by striking "and" at the end;

["(B) in paragraph (3), by striking the period at the end and inserting "; and"; and

["(C) by adding after paragraph (3) the following:

["(4) one day for each full biweekly pay period for an employee in a position paid under section 5376 or 5383, or for an employee in an equivalent category for which the minimum rate of basic pay is greater than the rate payable at GS-15, step 10.".

["(2) REGULATIONS.—Not later than 120 days after the date of enactment of this Act, the Office of Personnel Management shall prescribe regulations to carry out the amendments made by this subsection.

["(3) EFFECTIVE DATES.—

["(A) IN GENERAL.—Paragraph (1) shall take effect 120 days after the date of enactment of this Act.

["(B) REGULATIONS.—Paragraph (2) shall take effect on the date of enactment of this Act.]

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) *SHORT TITLE.*—This Act may be cited as the "Federal Workforce Flexibility Act of 2003".

(b) *TABLE OF CONTENTS.*—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—REFORMS RELATING TO FEDERAL HUMAN CAPITAL MANAGEMENT
Sec. 101. Recruitment, relocation, and retention bonuses.

Sec. 102. Streamlined critical pay authority.

Sec. 103. Civil service retirement system computation for part-time service.

Sec. 104. Retirement service credit for cadet or midshipman service.

Sec. 105. Senior Executive Service authority for White House Office of Administration.

TITLE II—REFORMS RELATING TO FEDERAL EMPLOYEE CAREER DEVELOPMENT AND BENEFITS

Sec. 201. Agency training.

Sec. 202. Annual leave enhancements.

Sec. 203. Compensatory time off for travel.

TITLE I—REFORMS RELATING TO FEDERAL HUMAN CAPITAL MANAGEMENT

SEC. 101. RECRUITMENT, RELOCATION, AND RETENTION BONUSES.

(a) BONUS.—

(1) IN GENERAL.—Chapter 57 of title 5, United States Code, is amended by inserting after section 5754 the following:

“§5754a. Recruitment and relocation bonuses

“(a) In this section, the term ‘employee’ has the meaning given that term under section 2105, except that such term also includes an employee described under subsection (c) of that section.

“(b)(1) The Office of Personnel Management may authorize the head of an agency to pay a bonus to an individual appointed or moved to a position that is likely to be difficult to fill in the absence of such a bonus, if the individual—

“(A)(i) is newly appointed as an employee of the Federal Government; or

“(ii) is currently employed by the Federal Government and moves to a new position in the same geographic area under circumstances described in regulations of the Office; or

“(B) is currently employed by the Federal Government and must relocate to accept a position stationed in a different geographic area.

“(2) Except as provided by subsection (h), a bonus may be paid under this section only to an employee covered by the General Schedule pay system established under subchapter III of chapter 53.

“(c)(1) Payment of a bonus under this section shall be contingent upon the employee entering into a written service agreement to complete a period of employment with the agency, not to exceed 4 years. The Office may, by regulation, prescribe a minimum service.

“(2)(A) The agreement shall include—

“(i) the length of the required service period;

“(ii) the amount of the bonus;

“(iii) the method of payment; and

“(iv) other terms and conditions under which the bonus is payable, subject to subsections (d) and (e) and regulations of the Office.

“(B) The terms and conditions for paying a bonus, as specified in the service agreement, shall include—

“(i) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed; and

“(ii) the effect of the termination.

“(3) The agreement shall be made effective upon employment with the agency or movement to a new position or geographic area, as applicable, except that a service agreement with respect to a recruitment bonus may be made effective at a later date under circumstances described in regulations of the Office, such as when there is an initial period of formal basic training.

“(d)(1) Except as provided in subsection (e), a bonus under this section shall not exceed 25 percent of the annual rate of basic pay of the employee at the beginning of the service period multiplied by the number of years (or fractions thereof) in the service period, not to exceed 4 years.

“(2) A bonus under this section may be paid as an initial lump sum, in installments, as a final lump sum upon the completion of the full service period, or in a combination of these forms of payment.

“(3) A bonus under this section is not part of the basic pay of an employee for any purpose.

“(4) Under regulations of the Office, a recruitment bonus under this section may be paid to an eligible individual before that individual enters on duty.

“(e) The Office may authorize the head of an agency to waive the limitation under subsection (d)(1) based on a critical agency need, subject to regulations prescribed by the Office. Under such a waiver, the amount of the bonus may be up to 50 percent of the employee's annual rate of basic pay at the beginning of the service period multiplied by the number of years (or fractions thereof) in the service period, not to exceed 100 percent of the employee's annual rate of basic pay at the beginning of the service period.

“(f) The Office shall require that, before paying a bonus under this section, an agency shall establish a plan for paying recruitment bonuses and a plan for paying relocation bonuses, subject to regulations prescribed by the Office.

“(g) The Office may prescribe regulations to carry out this section, including regulations relating to the repayment of a recruitment or relocation bonus in appropriate circumstances when the agreed-upon service period has not been completed.

“(h)(1) At the request of the head of an Executive agency, the Office may extend coverage under this section to categories of employees within the agency who otherwise would not be covered by this section.

“(2) A bonus may not be paid under this section to an individual who is appointed to, or who holds—

“(A) a position to which an individual is appointed by the President, by and with the advice and consent of the Senate;

“(B) a position in the Senior Executive Service as a noncareer appointee (as such term is defined under section 3132(a)); or

“(C) a position which has been excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating character.

“(i)(1) The Office of Personnel Management shall submit an annual report on bonuses paid under this section to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

“(2) Each report submitted under this subsection shall include the use by each agency of recruitment and relocation bonuses, including, with respect to each agency and each type of bonus, the number and amount of bonuses by grade (including the General Schedule, the Senior Executive Service, and positions on the Executive Schedule).

“(j)(1) An individual may not be paid a recruitment bonus under this section and a recruitment bonus under section 5753.

“(2) An individual may not be paid a relocation bonus under this section and a relocation bonus under section 5753.

“§5754b. Retention bonuses

“(a) In this section, the term ‘employee’ has the meaning given that term under section 2105, except that such term also includes an employee described in subsection (c) of that section.

“(b) The Office of Personnel Management may authorize the head of an agency to pay a retention bonus to an employee, subject to regulations prescribed by the Office, if—

“(1) the unusually high or unique qualifications of the employee or a special need of the agency for the employee's services makes it essential to retain the employee; and

“(2) the agency determines that, in the absence of a retention bonus, the employee would be likely to leave—

“(A) the Federal service; or

“(B) for a different position in the Federal service under conditions described in regulations of the Office.

“(c) The Office may authorize the head of an agency to pay retention bonuses to a group of

employees in 1 or more categories of positions in 1 or more geographic areas, subject to the requirements of subsection (b)(1) and regulations prescribed by the Office, if there is a high risk that a significant portion of employees in the group would be likely to leave in the absence of retention bonuses.

“(d) Except as provided in subsection (j), a bonus may be paid only to an employee covered by the General Schedule pay system established under subchapter III of chapter 53.

“(e)(1) Payment of a retention bonus is contingent upon the employee entering into a written service agreement with the agency to complete a period of employment with the agency.

“(2)(A) The agreement shall include—

“(i) the length of the required service period;

“(ii) the amount of the bonus;

“(iii) the method of payment; and

“(iv) other terms and conditions under which the bonus is payable, subject to subsections (f) and (g) and regulations of the Office.

“(B) The terms and conditions for paying a bonus, as specified in the service agreement, shall include—

“(i) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed; and

“(ii) the effect of the termination.

“(3)(A) Notwithstanding paragraph (1), a written service agreement is not required if the agency pays a retention bonus in biweekly installments and sets the installment payment at the full bonus percentage rate established for the employee with no portion of the bonus deferred.

“(B) If an agency pays a retention bonus in accordance with subparagraph (A) and makes a determination to terminate the payments, the agency shall provide written notice to the employee of that determination. Except as provided in regulations of the Office, the employee shall continue to be paid the retention bonus through the end of the pay period in which such written notice is provided.

“(4) A retention bonus for an employee may not be based on any period of such service which is the basis for a recruitment or relocation bonus under section 5753 or 5754a.

“(f)(1) Except as provided in subsection (g), a retention bonus, which shall be stated as a percentage of the employee's basic pay for the service period associated with the bonus, may not exceed—

“(A) 25 percent of the employee's basic pay if paid under subsection (b); or

“(B) 10 percent of an employee's basic pay if paid under subsection (c).

“(2) A retention bonus may be paid to an employee in installments after completion of specified periods of service or in a single lump sum at the end of the full period of service required by the agreement. An installment payment may not exceed the product derived from multiplying the amount of basic pay earned in the installment period by a percentage not to exceed the bonus percentage rate established for the employee. If the installment payment percentage is less than the bonus percentage rate, the accrued but unpaid portion of the bonus is payable as part of the final installment payment to the employee after completion of the full service period under the terms of the service agreement.

“(3) A retention bonus is not part of the basic pay of an employee for any purpose.

“(g) Upon the request of the head of an agency, the Office may waive the limit established under subsection (f)(1) and permit the agency head to pay an otherwise eligible employee or category of employees retention bonuses of up to 50 percent of basic pay, based on a critical agency need.

“(h) The Office shall require that, before paying a bonus under this section, an agency shall establish a plan for paying retention bonuses, subject to regulations prescribed by the Office.

“(i) The Office may prescribe regulations to carry out this section.

“(j)(1) At the request of the head of an Executive agency, the Office may extend coverage under this section to categories of employees within the agency who otherwise would not be covered by this section.

“(2) A bonus may not be paid under this section to an employee who holds—

“(A) a position to which an individual is appointed by the President, by and with the advice and consent of the Senate;

“(B) a position in the Senior Executive Service as a noncareer appointee (as such term is defined under section 3132(a)); or

“(C) a position which has been excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating character.

“(k)(1) The Office of Personnel Management shall submit an annual report on bonuses paid under this section to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

“(2) Each report submitted under this subsection shall include the use by each agency of retention bonuses, including, with respect to each agency, the number and amount of bonuses by grade (including the General Schedule, the Senior Executive Service, and positions on the Executive Schedule).

“(l) An employee may not be paid a retention bonus under this section and a retention allowance under section 5754.”

(2) **TECHNICAL AND CONFORMING AMENDMENT.**—The table of sections for chapter 57 of title 5, United States Code, is amended by inserting after the item relating to section 5754 the following:

“5754a. Recruitment and relocation bonuses.
“5754b. Retention bonuses.”

(b) **EFFECTIVE DATE AND APPLICATION.**—This section shall take effect on the first day of the first applicable pay period beginning on or after 180 days after the date of enactment of this Act.

SEC. 102. STREAMLINED CRITICAL PAY AUTHORITY.

Section 5377 of title 5, United States Code, is amended—

(1) by striking subsection (c) and inserting the following:

“(c) The Office of Personnel Management, in consultation with the Office of Management and Budget, may, upon the request of the head of an agency, grant authority to fix the rate of basic pay for 1 or more positions in such agency in accordance with this section.”;

(2) in subsection (e)(1), by striking “Office of Management and Budget” and inserting “Office of Personnel Management”;

(3) by striking subsections (f) and (g) and inserting the following:

“(f) The Office of Personnel Management may not authorize the exercise of authority under this section with respect to more than 800 positions at any 1 time, of which not more than 30 may, at any such time, be positions the rate of basic pay for which would otherwise be determined under subchapter II.

“(g) The Office of Personnel Management shall consult with the Office of Management and Budget before making any decision to grant or terminate any authority under this section.”; and

(4) in subsection (h), by striking “The Office of Management and Budget shall report to the Committee on Post Office and Civil Service” and inserting “The Office of Personnel Management shall report to the Committee on Government Reform.”.

SEC. 103. CIVIL SERVICE RETIREMENT SYSTEM COMPUTATION FOR PART-TIME SERVICE.

Section 8339(p) of title 5, United States Code, is amended by adding at the end the following:

“(3) In the administration of paragraph (1)—
“(A) subparagraph (A) of such paragraph shall apply to any service performed before, on, or after April 7, 1986;

“(B) subparagraph (B) of such paragraph shall apply to all service performed on a part-time or full-time basis on or after April 7, 1986; and

“(C) any service performed on a part-time basis before April 7, 1986, shall be credited as service performed on a full-time basis.”.

SEC. 104. RETIREMENT SERVICE CREDIT FOR CADET OR MIDSHIPMAN SERVICE.

(a) **CIVIL SERVICE RETIREMENT SYSTEM.**—Section 8331(13) of title 5, United States Code, is amended by striking “but” and inserting “and includes service as a cadet at the United States Military Academy, the United States Air Force Academy, or the United States Coast Guard Academy, or as a midshipman at the United States Naval Academy, but”.

(b) **FEDERAL EMPLOYEES' RETIREMENT SYSTEM.**—Section 8401(31) of title 5, United States Code, is amended by striking “but” and inserting “and includes service as a cadet at the United States Military Academy, the United States Air Force Academy, or the United States Coast Guard Academy, or as a midshipman at the United States Naval Academy, but”.

(c) **EFFECTIVE DATE AND APPLICATION.**—The amendments made by this section shall apply to—

(1) any annuity, eligibility for which is based upon a separation occurring before, on, or after the date of enactment of this Act; and

(2) any period of service as a cadet or midshipman at the military service academy of the Army, Air Force, Coast Guard, or Navy, occurring before, on, or after the date of enactment of this Act.

SEC. 105. SENIOR EXECUTIVE SERVICE AUTHORITY FOR WHITE HOUSE OFFICE OF ADMINISTRATION.

Chapter 2 of title 3, United States Code, is amended—

(1) in section 107(b)—

(A) in paragraph (2), by striking “section 3101” and inserting “sections 3101 and 3132”; and

(B) by adding at the end the following:

“(3) Any permanent Senior Executive Service position established under paragraph (2) shall be a career reserved position.”;

(2) in section 114—

(A) by redesignating that section as subsection (a);

(B) by amending that subsection, as so redesignated, by striking “minimum rate of basic pay then currently paid for GS-16” and inserting “maximum rate of basic pay then currently paid for GS-15”; and

(C) by adding at the end the following:

“(b) The limitation established in subsection (a) shall not apply to an individual appointed under the authority in section 107(b)(2), in accordance with section 3132 of title 5.”.

TITLE II—REFORMS RELATING TO FEDERAL EMPLOYEE CAREER DEVELOPMENT AND BENEFITS

SEC. 201. AGENCY TRAINING.

(a) **TRAINING TO ACCOMPLISH PERFORMANCE PLANS AND STRATEGIC GOALS.**—Section 4103 of title 5, United States Code, is amended by adding at the end the following:

“(c) The head of each agency shall—

“(1) evaluate each program or plan established, operated, or maintained under subsection (a) with respect to accomplishing specific performance plans and strategic goals in performing the agency mission; and

“(2) modify such program or plan to accomplish such plans and goals.”.

(b) **AGENCY TRAINING OFFICER; SPECIFIC TRAINING PROGRAMS.**—

(1) **IN GENERAL.**—Chapter 41 of title 5, United States Code, is amended by adding after section 4119 the following:

“§ 4120. Agency training officer

“Each agency shall appoint or designate a training officer who shall be responsible for de-

veloping, coordinating, and administering training for the agency.

“§ 4121. Specific training programs

“In consultation with the Office of Personnel Management, each head of an agency shall establish—

“(1) a comprehensive management succession program to provide training to employees to develop managers for the agency; and

“(2) a program to provide training to managers on actions, options, and strategies a manager may use in—

“(A) relating to employees with unacceptable performances; and

“(B) mentoring employees and improving employee performance and productivity.”.

(2) **TECHNICAL AND CONFORMING AMENDMENT.**—The table of sections for chapter 41 of title 5, United States Code, is amended by adding at the end the following:

“4120. Agency training officer.

“4121. Specific training programs.”.

SEC. 202. ANNUAL LEAVE ENHANCEMENTS.

(a) **ACCRUAL OF LEAVE FOR NEWLY HIRED FEDERAL EMPLOYEES WITH QUALIFIED EXPERIENCE.**—

(1) **IN GENERAL.**—Section 6303 of title 5, United States Code, is amended by adding at the end the following:

“(e)(1) In this subsection, the term ‘period of qualified non-Federal career experience’ means any equal period of service performed by an individual that—

“(A) except for this subsection would not otherwise be service performed by an employee for purposes of subsection (a); and

“(B) was performed in a position—

“(i) the duties of which were directly related to the duties of the position in an agency that such individual holds; and

“(ii) which meets such other conditions as the Office of Personnel Management shall prescribe by regulation.

“(2) For purposes of subsection (a), the head of an agency may deem a period of qualified non-Federal career experience performed by an individual to be a period of service performed as an employee.”.

(2) **EFFECTIVE DATE.**—This section shall take effect 120 days after the date of enactment of this Act and shall only apply to an individual hired on or after that effective date.

(b) **SENIOR EXECUTIVE SERVICE ANNUAL LEAVE ENHANCEMENTS.**—

(1) **IN GENERAL.**—Section 6303(a) of title 5, United States Code, is amended—

(A) in paragraph (2), by striking “and” at the end;

(B) in paragraph (3), by striking the period at the end and inserting “; and”; and

(C) by adding after paragraph (3) the following:

“(4) one day for each full biweekly pay period for an employee in a position paid under section 5376 or 5383, or for an employee in an equivalent category for which the minimum rate of basic pay is greater than the rate payable at GS-15, step 10.”.

(2) **REGULATIONS.**—Not later than 120 days after the date of enactment of this Act, the Office of Personnel Management shall prescribe regulations to carry out the amendments made by this subsection.

(3) **EFFECTIVE DATES.**—

(A) **IN GENERAL.**—Paragraph (1) shall take effect 120 days after the date of enactment of this Act.

(B) **REGULATIONS.**—Paragraph (2) shall take effect on the date of enactment of this Act.

SEC. 203. COMPENSATORY TIME OFF FOR TRAVEL.

(a) **IN GENERAL.**—Subchapter V of chapter 55 of title 5, United States Code, is amended by adding at the end the following:

“§ 5550b. Compensatory time off for travel

“(a) Notwithstanding section 5542(b)(2), each hour spent by an employee in travel status

away from the official duty station of the employee, that is not otherwise compensable, shall be treated as an hour of work or employment for purposes of calculating compensatory time off.

“(b) An employee who has any hours treated as hours of work or employment for purposes of calculating compensatory time under subsection (a), shall not be entitled to payment for any such hours that are unused as compensatory time.

“(c) Not later than 30 days after the date of enactment of this section, the Office of Personnel Management shall prescribe regulations to implement this section.”.

(b) **TECHNICAL AND CONFORMING AMENDMENT.**—The table of sections for chapter 55 of title 5, United States Code, is amended by inserting after the item relating to section 5550a the following:

“5550b. Compensatory time off for travel.”.

Mr. FRIST. Mr. President, I ask unanimous consent that the amendment at the desk be agreed to, the committee substitute, as amended, be agreed to, the bill, as amended, be read a third time and passed, the motions to reconsider be laid upon the table en bloc, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3045) was agreed to, as follows:

AMENDMENT NO. 3045

(Purpose: To make a technical correction)

On page 48, line 19, insert “in the first sentence,” after “paragraph (2).”.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill (S. 129), as amended, was read the third time and passed, as follows:

S. 129

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Federal Workforce Flexibility Act of 2003”.

(b) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—REFORMS RELATING TO FEDERAL HUMAN CAPITAL MANAGEMENT

Sec. 101. Recruitment, relocation, and retention bonuses.

Sec. 102. Streamlined critical pay authority.

Sec. 103. Civil service retirement system computation for part-time service.

Sec. 104. Retirement service credit for cadet or midshipman service.

Sec. 105. Senior Executive Service authority for White House Office of Administration.

TITLE II—REFORMS RELATING TO FEDERAL EMPLOYEE CAREER DEVELOPMENT AND BENEFITS

Sec. 201. Agency training.

Sec. 202. Annual leave enhancements.

Sec. 203. Compensatory time off for travel.

TITLE I—REFORMS RELATING TO FEDERAL HUMAN CAPITAL MANAGEMENT

SEC. 101. RECRUITMENT, RELOCATION, AND RETENTION BONUSES.

(a) BONUSES.—

(1) **IN GENERAL.**—Chapter 57 of title 5, United States Code, is amended by inserting after section 5754 the following:

“§ 5754a. Recruitment and relocation bonuses

“(a) In this section, the term ‘employee’ has the meaning given that term under sec-

tion 2105, except that such term also includes an employee described under subsection (c) of that section.

“(b)(1) The Office of Personnel Management may authorize the head of an agency to pay a bonus to an individual appointed or moved to a position that is likely to be difficult to fill in the absence of such a bonus, if the individual—

“(A)(i) is newly appointed as an employee of the Federal Government; or

“(ii) is currently employed by the Federal Government and moves to a new position in the same geographic area under circumstances described in regulations of the Office; or

“(B) is currently employed by the Federal Government and must relocate to accept a position stationed in a different geographic area.

“(2) Except as provided by subsection (h), a bonus may be paid under this section only to an employee covered by the General Schedule pay system established under subchapter III of chapter 53.

“(c)(1) Payment of a bonus under this section shall be contingent upon the employee entering into a written service agreement to complete a period of employment with the agency, not to exceed 4 years. The Office may, by regulation, prescribe a minimum service.

“(2)(A) The agreement shall include—

“(i) the length of the required service period;

“(ii) the amount of the bonus;

“(iii) the method of payment; and

“(iv) other terms and conditions under which the bonus is payable, subject to subsections (d) and (e) and regulations of the Office.

“(B) The terms and conditions for paying a bonus, as specified in the service agreement, shall include—

“(i) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed; and

“(ii) the effect of the termination.

“(3) The agreement shall be made effective upon employment with the agency or movement to a new position or geographic area, as applicable, except that a service agreement with respect to a recruitment bonus may be made effective at a later date under circumstances described in regulations of the Office, such as when there is an initial period of formal basic training.

“(d)(1) Except as provided in subsection (e), a bonus under this section shall not exceed 25 percent of the annual rate of basic pay of the employee at the beginning of the service period multiplied by the number of years (or fractions thereof) in the service period, not to exceed 4 years.

“(2) A bonus under this section may be paid as an initial lump sum, in installments, as a final lump sum upon the completion of the full service period, or in a combination of these forms of payment.

“(3) A bonus under this section is not part of the basic pay of an employee for any purpose.

“(4) Under regulations of the Office, a recruitment bonus under this section may be paid to an eligible individual before that individual enters on duty.

“(e) The Office may authorize the head of an agency to waive the limitation under subsection (d)(1) based on a critical agency need, subject to regulations prescribed by the Office. Under such a waiver, the amount of the bonus may be up to 50 percent of the employee’s annual rate of basic pay at the beginning of the service period multiplied by the number of years (or fractions thereof) in the service period, not to exceed 100 percent of the employee’s annual rate of basic pay at the beginning of the service period.

“(f) The Office shall require that, before paying a bonus under this section, an agency shall establish a plan for paying recruitment bonuses and a plan for paying relocation bonuses, subject to regulations prescribed by the Office.

“(g) The Office may prescribe regulations to carry out this section, including regulations relating to the repayment of a recruitment or relocation bonus in appropriate circumstances when the agreed-upon service period has not been completed.

“(h)(1) At the request of the head of an Executive agency, the Office may extend coverage under this section to categories of employees within the agency who otherwise would not be covered by this section.

“(2) A bonus may not be paid under this section to an individual who is appointed to, or who holds—

“(A) a position to which an individual is appointed by the President, by and with the advice and consent of the Senate;

“(B) a position in the Senior Executive Service as a noncareer appointee (as such term is defined under section 3132(a)); or

“(C) a position which has been excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating character.

“(i)(1) The Office of Personnel Management shall submit an annual report on bonuses paid under this section to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

“(2) Each report submitted under this subsection shall include the use by each agency of recruitment and relocation bonuses, including, with respect to each agency and each type of bonus, the number and amount of bonuses by grade (including the General Schedule, the Senior Executive Service, and positions on the Executive Schedule).

“(j)(1) An individual may not be paid a recruitment bonus under this section and a recruitment bonus under section 5753.

“(2) An individual may not be paid a relocation bonus under this section and a relocation bonus under section 5753.

“§ 5754b. Retention bonuses

“(a) In this section, the term ‘employee’ has the meaning given that term under section 2105, except that such term also includes an employee described in subsection (c) of that section.

“(b) The Office of Personnel Management may authorize the head of an agency to pay a retention bonus to an employee, subject to regulations prescribed by the Office, if—

“(1) the unusually high or unique qualifications of the employee or a special need of the agency for the employee’s services makes it essential to retain the employee; and

“(2) the agency determines that, in the absence of a retention bonus, the employee would be likely to leave—

“(A) the Federal service; or

“(B) for a different position in the Federal service under conditions described in regulations of the Office.

“(c) The Office may authorize the head of an agency to pay retention bonuses to a group of employees in 1 or more categories of positions in 1 or more geographic areas, subject to the requirements of subsection (b)(1) and regulations prescribed by the Office, if there is a high risk that a significant portion of employees in the group would be likely to leave in the absence of retention bonuses.

“(d) Except as provided in subsection (j), a bonus may be paid only to an employee covered by the General Schedule pay system established under subchapter III of chapter 53.

“(e)(1) Payment of a retention bonus is contingent upon the employee entering into a written service agreement with the agency

to complete a period of employment with the agency.

“(2)(A) The agreement shall include—

“(i) the length of the required service period;

“(ii) the amount of the bonus;

“(iii) the method of payment; and

“(iv) other terms and conditions under which the bonus is payable, subject to subsections (f) and (g) and regulations of the Office.

“(B) The terms and conditions for paying a bonus, as specified in the service agreement, shall include—

“(i) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed; and

“(ii) the effect of the termination.

“(3)(A) Notwithstanding paragraph (1), a written service agreement is not required if the agency pays a retention bonus in bi-weekly installments and sets the installment payment at the full bonus percentage rate established for the employee with no portion of the bonus deferred.

“(B) If an agency pays a retention bonus in accordance with subparagraph (A) and makes a determination to terminate the payments, the agency shall provide written notice to the employee of that determination. Except as provided in regulations of the Office, the employee shall continue to be paid the retention bonus through the end of the pay period in which such written notice is provided.

“(4) A retention bonus for an employee may not be based on any period of such service which is the basis for a recruitment or relocation bonus under section 5753 or 5754a.

“(f)(1) Except as provided in subsection (g), a retention bonus, which shall be stated as a percentage of the employee's basic pay for the service period associated with the bonus, may not exceed—

“(A) 25 percent of the employee's basic pay if paid under subsection (b); or

“(B) 10 percent of an employee's basic pay if paid under subsection (c).

“(2) A retention bonus may be paid to an employee in installments after completion of specified periods of service or in a single lump sum at the end of the full period of service required by the agreement. An installment payment may not exceed the product derived from multiplying the amount of basic pay earned in the installment period by a percentage not to exceed the bonus percentage rate established for the employee. If the installment payment percentage is less than the bonus percentage rate, the accrued but unpaid portion of the bonus is payable as part of the final installment payment to the employee after completion of the full service period under the terms of the service agreement.

“(3) A retention bonus is not part of the basic pay of an employee for any purpose.

“(g) Upon the request of the head of an agency, the Office may waive the limit established under subsection (f)(1) and permit the agency head to pay an otherwise eligible employee or category of employees retention bonuses of up to 50 percent of basic pay, based on a critical agency need.

“(h) The Office shall require that, before paying a bonus under this section, an agency shall establish a plan for paying retention bonuses, subject to regulations prescribed by the Office.

“(i) The Office may prescribe regulations to carry out this section.

“(j)(1) At the request of the head of an Executive agency, the Office may extend coverage under this section to categories of employees within the agency who otherwise would not be covered by this section.

“(2) A bonus may not be paid under this section to an employee who holds—

“(A) a position to which an individual is appointed by the President, by and with the advice and consent of the Senate;

“(B) a position in the Senior Executive Service as a noncareer appointee (as such term is defined under section 3132(a)); or

“(C) a position which has been excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating character.

“(k)(1) The Office of Personnel Management shall submit an annual report on bonuses paid under this section to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

“(2) Each report submitted under this subsection shall include the use by each agency of retention bonuses, including, with respect to each agency, the number and amount of bonuses by grade (including the General Schedule, the Senior Executive Service, and positions on the Executive Schedule).

“(1) An employee may not be paid a retention bonus under this section and a retention allowance under section 5754.”

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 57 of title 5, United States Code, is amended by inserting after the item relating to section 5754 the following:

“5754a. Recruitment and relocation bonuses.
“5754b. Retention bonuses.”

(b) EFFECTIVE DATE AND APPLICATION.—This section shall take effect on the first day of the first applicable pay period beginning on or after 180 days after the date of enactment of this Act.

SEC. 102. STREAMLINED CRITICAL PAY AUTHORITY.

Section 5377 of title 5, United States Code, is amended—

(1) by striking subsection (c) and inserting the following:

“(c) The Office of Personnel Management, in consultation with the Office of Management and Budget, may, upon the request of the head of an agency, grant authority to fix the rate of basic pay for 1 or more positions in such agency in accordance with this section.”;

(2) in subsection (e)(1), by striking “Office of Management and Budget” and inserting “Office of Personnel Management”;

(3) by striking subsections (f) and (g) and inserting the following:

“(f) The Office of Personnel Management may not authorize the exercise of authority under this section with respect to more than 800 positions at any 1 time, of which not more than 30 may, at any such time, be positions the rate of basic pay for which would otherwise be determined under subchapter II.

“(g) The Office of Personnel Management shall consult with the Office of Management and Budget before making any decision to grant or terminate any authority under this section.”; and

(4) in subsection (h), by striking “The Office of Management and Budget shall report to the Committee on Post Office and Civil Service” and inserting “The Office of Personnel Management shall report to the Committee on Government Reform.”.

SEC. 103. CIVIL SERVICE RETIREMENT SYSTEM COMPUTATION FOR PART-TIME SERVICE.

Section 8339(p) of title 5, United States Code, is amended by adding at the end the following:

“(3) In the administration of paragraph (1)—

“(A) subparagraph (A) of such paragraph shall apply to any service performed before, on, or after April 7, 1986;

“(B) subparagraph (B) of such paragraph shall apply to all service performed on a part-time or full-time basis on or after April 7, 1986; and

“(C) any service performed on a part-time basis before April 7, 1986, shall be credited as service performed on a full-time basis.”.

SEC. 104. RETIREMENT SERVICE CREDIT FOR CADET OR MIDSHIPMAN SERVICE.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8331(13) of title 5, United States Code, is amended by striking “but” and inserting “and includes service as a cadet at the United States Military Academy, the United States Air Force Academy, or the United States Coast Guard Academy, or as a midshipman at the United States Naval Academy, but”.

(b) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—Section 8401(31) of title 5, United States Code, is amended by striking “but” and inserting “and includes service as a cadet at the United States Military Academy, the United States Air Force Academy, or the United States Coast Guard Academy, or as a midshipman at the United States Naval Academy, but”.

(c) EFFECTIVE DATE AND APPLICATION.—The amendments made by this section shall apply to—

(1) any annuity, eligibility for which is based upon a separation occurring before, on, or after the date of enactment of this Act; and

(2) any period of service as a cadet or midshipman at the military service academy of the Army, Air Force, Coast Guard, or Navy, occurring before, on, or after the date of enactment of this Act.

SEC. 105. SENIOR EXECUTIVE SERVICE AUTHORITY FOR WHITE HOUSE OFFICE OF ADMINISTRATION.

Chapter 2 of title 3, United States Code, is amended—

(1) in section 107(b)—

(A) in paragraph (2), in the first sentence, by striking “section 3101” and inserting “sections 3101 and 3132”; and

(B) by adding at the end the following:

“(3) Any permanent Senior Executive Service position established under paragraph (2) shall be a career reserved position.”;

(2) in section 114—

(A) by redesignating that section as subsection (a);

(B) by amending that subsection, as so redesignated, by striking “minimum rate of basic pay then currently paid for GS-16” and inserting “maximum rate of basic pay then currently paid for GS-15”; and

(C) by adding at the end the following:

“(b) The limitation established in subsection (a) shall not apply to an individual appointed under the authority in section 107(b)(2), in accordance with section 3132 of title 5.”.

TITLE II—REFORMS RELATING TO FEDERAL EMPLOYEE CAREER DEVELOPMENT AND BENEFITS

SEC. 201. AGENCY TRAINING.

(a) TRAINING TO ACCOMPLISH PERFORMANCE PLANS AND STRATEGIC GOALS.—Section 4103 of title 5, United States Code, is amended by adding at the end the following:

“(c) The head of each agency shall—

“(1) evaluate each program or plan established, operated, or maintained under subsection (a) with respect to accomplishing specific performance plans and strategic goals in performing the agency mission; and

“(2) modify such program or plan to accomplish such plans and goals.”.

(b) AGENCY TRAINING OFFICER; SPECIFIC TRAINING PROGRAMS.—

(1) IN GENERAL.—Chapter 41 of title 5, United States Code, is amended by adding after section 4119 the following:

“§ 4120. Agency training officer

“Each agency shall appoint or designate a training officer who shall be responsible for developing, coordinating, and administering training for the agency.”.

§ 4121. Specific training programs

"In consultation with the Office of Personnel Management, each head of an agency shall establish—

"(1) a comprehensive management succession program to provide training to employees to develop managers for the agency; and

"(2) a program to provide training to managers on actions, options, and strategies a manager may use in—

"(A) relating to employees with unacceptable performances; and

"(B) mentoring employees and improving employee performance and productivity."

(2) **TECHNICAL AND CONFORMING AMENDMENT.**—The table of sections for chapter 41 of title 5, United States Code, is amended by adding at the end the following:

"4120. Agency training officer."

"4121. Specific training programs."

SEC. 202. ANNUAL LEAVE ENHANCEMENTS.

(a) **ACCRUAL OF LEAVE FOR NEWLY HIRED FEDERAL EMPLOYEES WITH QUALIFIED EXPERIENCE.**—

(1) **IN GENERAL.**—Section 6303 of title 5, United States Code, is amended by adding at the end the following:

"(e)(1) In this subsection, the term 'period of qualified non-Federal career experience' means any equal period of service performed by an individual that—

"(A) except for this subsection would not otherwise be service performed by an employee for purposes of subsection (a); and

"(B) was performed in a position—

"(i) the duties of which were directly related to the duties of the position in an agency that such individual holds; and

"(ii) which meets such other conditions as the Office of Personnel Management shall prescribe by regulation.

"(2) For purposes of subsection (a), the head of an agency may deem a period of qualified non-Federal career experience performed by an individual to be a period of service performed as an employee."

(2) **EFFECTIVE DATE.**—This section shall take effect 120 days after the date of enactment of this Act and shall only apply to an individual hired on or after that effective date.

(b) **SENIOR EXECUTIVE SERVICE ANNUAL LEAVE ENHANCEMENTS.**—

(1) **IN GENERAL.**—Section 6303(a) of title 5, United States Code, is amended—

(A) in paragraph (2), by striking "and" at the end;

(B) in paragraph (3), by striking the period at the end and inserting "; and"; and

(C) by adding after paragraph (3) the following:

"(4) one day for each full biweekly pay period for an employee in a position paid under section 5376 or 5383, or for an employee in an equivalent category for which the minimum rate of basic pay is greater than the rate payable at GS-15, step 10."

(2) **REGULATIONS.**—Not later than 120 days after the date of enactment of this Act, the Office of Personnel Management shall prescribe regulations to carry out the amendments made by this subsection.

(3) **EFFECTIVE DATES.**—

(A) **IN GENERAL.**—Paragraph (1) shall take effect 120 days after the date of enactment of this Act.

(B) **REGULATIONS.**—Paragraph (2) shall take effect on the date of enactment of this Act.

SEC. 203. COMPENSATORY TIME OFF FOR TRAVEL.

(a) **IN GENERAL.**—Subchapter V of chapter 55 of title 5, United States Code, is amended by adding at the end the following:

§ 5550b. Compensatory time off for travel

"(a) Notwithstanding section 5542(b)(2), each hour spent by an employee in travel

status away from the official duty station of the employee, that is not otherwise compensable, shall be treated as an hour of work or employment for purposes of calculating compensatory time off.

"(b) An employee who has any hours treated as hours of work or employment for purposes of calculating compensatory time under subsection (a), shall not be entitled to payment for any such hours that are unused as compensatory time.

"(c) Not later than 30 days after the date of enactment of this section, the Office of Personnel Management shall prescribe regulations to implement this section."

(b) **TECHNICAL AND CONFORMING AMENDMENT.**—The table of sections for chapter 55 of title 5, United States Code, is amended by inserting after the item relating to section 5550a the following:

"5550b. Compensatory time off for travel."

CONDEMNING ETHNIC VIOLENCE IN KOSOVO

Mr. FRIST. Mr. President, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of S. Res. 326, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 326) condemning ethnic violence in Kosovo.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 326) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 326

Whereas ethnic violence erupted in Kosovo on March 17, 2004, claiming the lives of 20 individuals, including 8 Kosovo Serbs, 8 Kosovo Albanians, and 4 unidentified victims, injuring more than 600 others, and displacing more than 4,000 Kosovo Serbs and other minorities;

Whereas the violence also resulted in the destruction of more than 500 homes belonging to Kosovo Serbs, Ashkali, and other minorities, and in the destruction of, or damage to, more than 30 churches and monasteries belonging to the Serbian Orthodox Church;

Whereas historic mosques in Belgrade and Nis, and an Islamic center in Novi Sad, were also destroyed or damaged;

Whereas in response to the violence, Commander in Chief of the North Atlantic Treaty Organization (NATO) Allied Forces South, Admiral Gregory Johnson, concluded, "This kind of activity, which essentially amounts to ethnic cleansing, cannot go on."

Whereas Supreme Allied Commander, Europe, General James Jones ordered the deployment of NATO's Strategic Reserve Force on March 19, 2004, to calm the violence and end the destruction;

Whereas Deputy Secretary of State Richard Armitage and Foreign Minister of Serbia and Montenegro Goran Svilanovic met in Washington on March 19, 2004, and called for an immediate end to the violence, concurring that no party in Kosovo can be allowed to profit or advance a political agenda through violent measures;

Whereas a stable, secure, and functioning multiethnic society is in the best interest of all people of Kosovo, the broader region of Southeast Europe, and the world;

Whereas it is essential that political leaders in Kosovo support efforts to establish an environment in which all people in Kosovo have freedom of movement and the ability to live free from fear;

Whereas the United States and members of the international community have called on the people of Kosovo to implement 8 standards outlined by the United Nations Interim Administration in Kosovo (UNMIK), which are to be met prior to the consideration of the question of final status for Kosovo, including: the existence of effective, representative, and functioning democratic institutions; enforcement of the rule of law; freedom of movement; sustainable returns of refugees and displaced persons, and respect for the rights of communities; creation of a sound basis for a market economy; fair enforcement of property rights; normalized dialogue with Belgrade; and transformation of the Kosovo Protection Corps (KPC) in line with its mandate; and

Whereas it is in the long-term interest of all people of Kosovo that the UNMIK standards are achieved in order to promote peace, stability, and economic development, and to ensure a better future for all people in Kosovo: Now, therefore, be it

Resolved, That the Senate—

(1) urges all people in Kosovo to immediately stop the violence, end the destruction of homes, churches, and other cultural and religious sites, and cooperate with North Atlantic Treaty Organization's Kosovo Force (KFOR), the United Nations Interim Administration in Kosovo (UNMIK), and the Kosovo Police in identifying for prosecution the perpetrators of violence and the destruction of property;

(2) expresses its deep condolences to the families of those who have been killed in the recent violence;

(3) strongly condemns the destruction of personal and religious property in Kosovo, including more than 500 homes belonging to Kosovo Serbs, Ashkali, and other minorities, and of 30 churches and monasteries belonging to the Serbian Orthodox Church, adding to the more than 100 churches that have been destroyed since June 1999;

(4) strongly condemns the destruction of historic mosques in the cities of Belgrade and Nis, and of an Islamic center in Novi Sad;

(5) recognizes the commitment made by the Kosovo Assembly to establish a fund for the reconstruction of property, including homes and churches, destroyed during the attacks;

(6) recognizes the commitment made by Serbian officials to provide funds for the reconstruction of mosques in Belgrade and Nis, and an Islamic center in Novi Sad;

(7) urges political leaders to fulfill their commitment to rebuild what has been destroyed and to take all possible action to allow the more than 4,000 Kosovo Serbs and other minorities displaced during the violence to return quickly and safely to their homes and communities;

(8) encourages all political leaders in Kosovo to renounce the use of violence, and to proceed with efforts to establish a secure, peaceful, multiethnic society, which protects the rights of all people in Kosovo, and to